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ADDITIONAL

RULES AND ORDERS

FOR

THE DIVISION COURTS

IN ONTARIO.

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FRAMED BY

THE BOARD OF COUNTY JUDGES,

1879.

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TORONTO:

PRINTED BY C. B. ROBINSON, 5 JORDAN STREET.

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**ADDITIONAL**

**RULES AND ORDERS**

**FOR**

**THE DIVISION COURTS.**

**PROVINCE OF ONTARIO.**

We, the undersigned, "the Board of County Judges," acting under and in pursuance of the powers vested in us by "the Division Courts Act," have framed the following additional General Rules and Orders, to be in force from and after the first day of January, A.D. 1880, until otherwise ordered; and we do certify the same to the Honourable the Chief Justice of the Court of Queen's Bench of the Province of Ontario accordingly.

**RULES.**

**RULE No. 171.**—From and after the first day of January, A.D. 1880, Rule No. 170, of the Supplementary General Rules of the 26th June, 1874, and Schedule of Clerks' Fees (Form 127), and Schedule of Bailiffs' Fees (Form 128) shall be rescinded; and from and after the said first day of January, 1880, the fees set forth in the tariff hereto annexed, marked "Schedule of Clerks' Fees" (Form 130), and "Schedule of

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"Bailiffs' Fees" (Form 131), shall be the fees to be received by the several Clerks and Bailiffs of Division Courts in Ontario, for and in relation to the duties and services to be performed by them, as officers of the said Courts, and shall be in lieu of all other fees heretofore receivable.

**RULE No. 172.**—At the opening of every Court, and at such other times as the Judge shall require, the Clerk shall lay before the Judge the returns of Bailiffs under Rule 93, duly certified under Rule 94.

**RULE No. 173.**—The Clerk shall, at every sitting of the Court, report in writing to the Judge as to the several sureties of himself and the Bailiff or Bailiffs of his Court, whether any of them have died, become insolvent or left the County since his last report, and mentioning any facts connected therewith which ought to be made known to the Judge.

**RULE No. 174.**—Every Clerk is expected and enjoined to answer promptly all reasonable inquiries made touching their suits by the parties thereto, their attorneys or agents; if no postage stamp is sent him for reply, then such answer may be by post card.

**RULE No. 175.**—On payment of a fee of 5cts. every Clerk, when required by parties paying costs, shall give a statement, in writing, of items in detail or transmit the same by postal card.

**RULE No. 176.**—The Bailiff receiving an execution shall immediately endorse on the same a correct statement of the day and hour of the day when he receives such execution, and in addition to the formal return (Form 124) on every execution.

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returned, he shall give a correct and full statement of the particulars, in detail, of all his charges made for fees and disbursements in the execution thereof; and a similar statement in making returns of Writs of Replevin and Warrants of Attachment.

**RULE No. 177.**—In case of any process or paper received for service or execution from a "Foreign Court," the Clerk so receiving the same and procuring the service or execution thereof shall, on returning the same, give a full and correct statement, in detail, of the items of all charges made for fees and disbursements in respect of such service or execution of process, and the Clerk who receives the same shall report to the Judge of his own county any charge made by the Clerk of the "Foreign Court" in excess of the allowance for fees made by the tariff.

**RULE No. 178.**—Rule 89 of the General Rules of the 1st of July, 1869, is amended as follows:—All the words after the word "Summons" in the said Rule are struck out, and the following are substituted in lieu thereof:—"And the Bills given under Form 129 show the forms in which such Bills may be made out, and are to be taken as guides in framing and taxing such Bills."

**RULE No. 179.**—Form 114 in the Schedule of General Forms is hereby rescinded, and Form 129 is substituted therefor.

**RULE No. 180.**—When any notice required to be given to any of the parties to a suit is sent through the Post Office, the Clerk shall register the letter containing such notice, and shall



obtain and preserve with the other papers in the suit, a certificate of such registration.

Dated 28th November, 1879.

JAS. ROBT GOWAN,

*Senior Judge C. S., Chairman.*

S. J. JONES,

*County Judge, Brant.*

D. J. HUGHES,

*County Judge, Elgin.*

Approved.

JOHN H. HAGARTY, C.J.,

ADAM WILSON, C.J., C.P.,

THOMAS GALT, J.,

M. C. CAMERON, J.Q.B.,

F. OSLER, J.C.P.

BILL

Clerk

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Taxe

## F O R M S.

### FORM 129.

**BILL OF COSTS** upon a claim for, say \$20 up to and including judgment entered by the Clerk, upon special summons, no notice of defence being given.

*Clerk's Fees.*

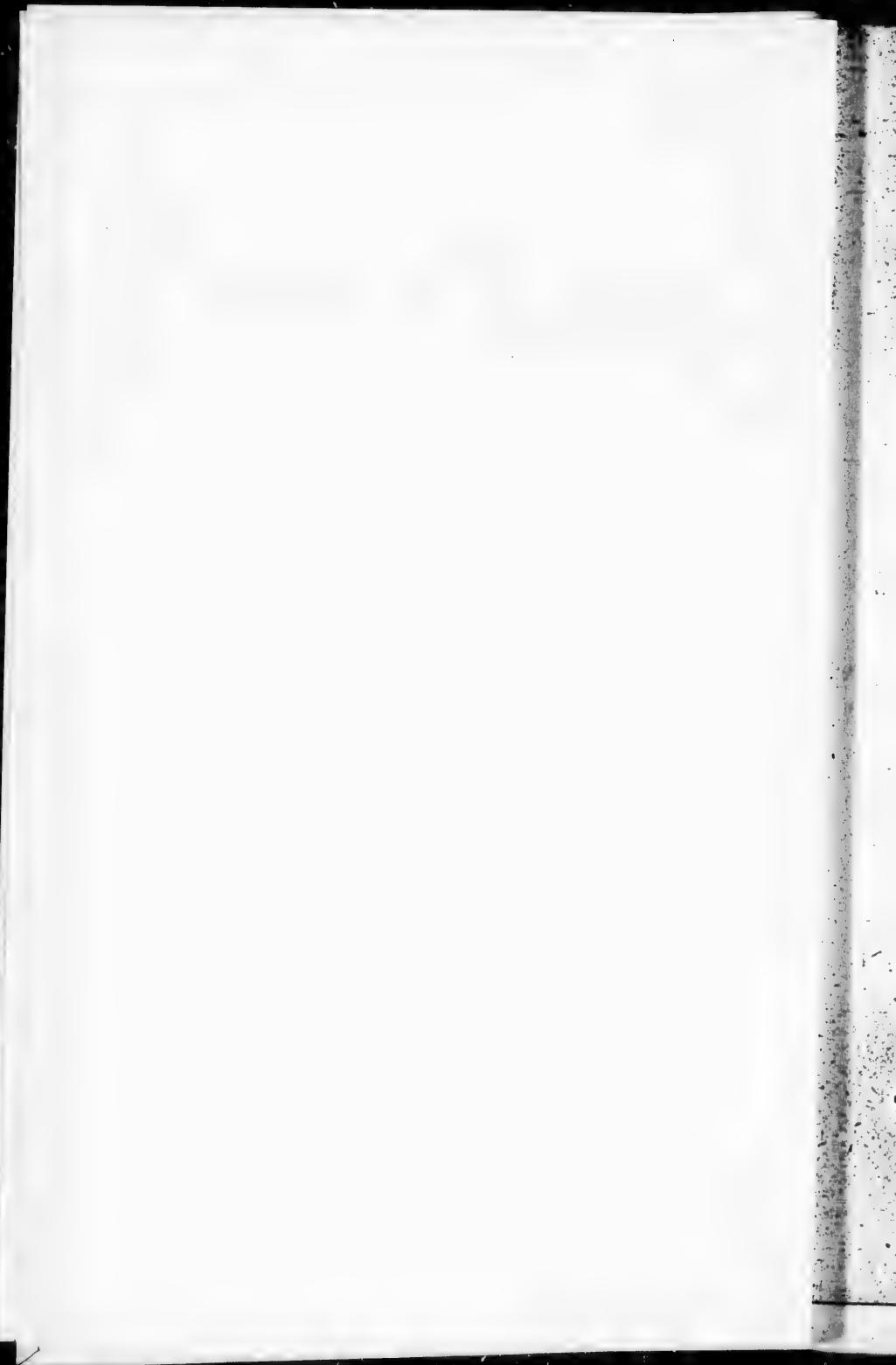
Receiving claim, numbering and entering in Procedure Book.....	\$0 15
Issuing summons, with necessary notices and warnings thereon.....	0 30
Copy of summons, including all notices and warnings thereon.....	0 20
Receiving and entering Bailiff's return to summons	0 10
Affidavit of service and administering oath to the deponent .....	0 25
Notice to plaintiff, when defendant has failed to give notice of defence, 10c.; postage and registration, 5c.....	0 15
Entering final judgment by the Clerk.....	0 40
 Total Clerk's fees.....	 \$1 55

*Bailiff's Fees.*

Service of summons.....	\$0 20
Return of service, and attending Clerk's office to make necessary affidavit.....	0 10
 Total Bailiff's Fees.....	 \$0 30
 Total costs.....	 \$1 85

Taxed this      day of      18 .

*Clerk.*



BILL OF COSTS upon claim for, say \$60.00, defended, cause tried, and judgment entered for plaintiff, with costs.

*Clerk's Fees.*

Receiving claim, &c.....	\$0 15
Issuing summons, &c .....	0 40
Copy of summons, &c.....	0 20
Receiving and entering Bailiff's return, &c .....	0 10
Affidavit of service, &c .....	0 25
Subpoena to witness.....	0 10
Three copies.....	0 15
Notice of defence, &c., to plaintiff, and mailing same, 10c.; postage and registration, 5c. ....	0 15
Recording and entering judgment rendered at the hearing.....	0 40
 Total Clerk's fees .....	 \$1 90

*Bailiff's Fees.*

Service of summons, &c.....	\$0 30
Attending to return, &c .....	0 10
Service of subpoena (3 witnesses) .....	0 30
Calling parties and their witnesses .....	0 15
 Total Bailiff's fees .....	 \$0 85
 Total costs .....	 \$2 75

Taxed, this day of 18 .

*Clerk*

N.R.—Mileage and fees to witnesses, if any, to be added.

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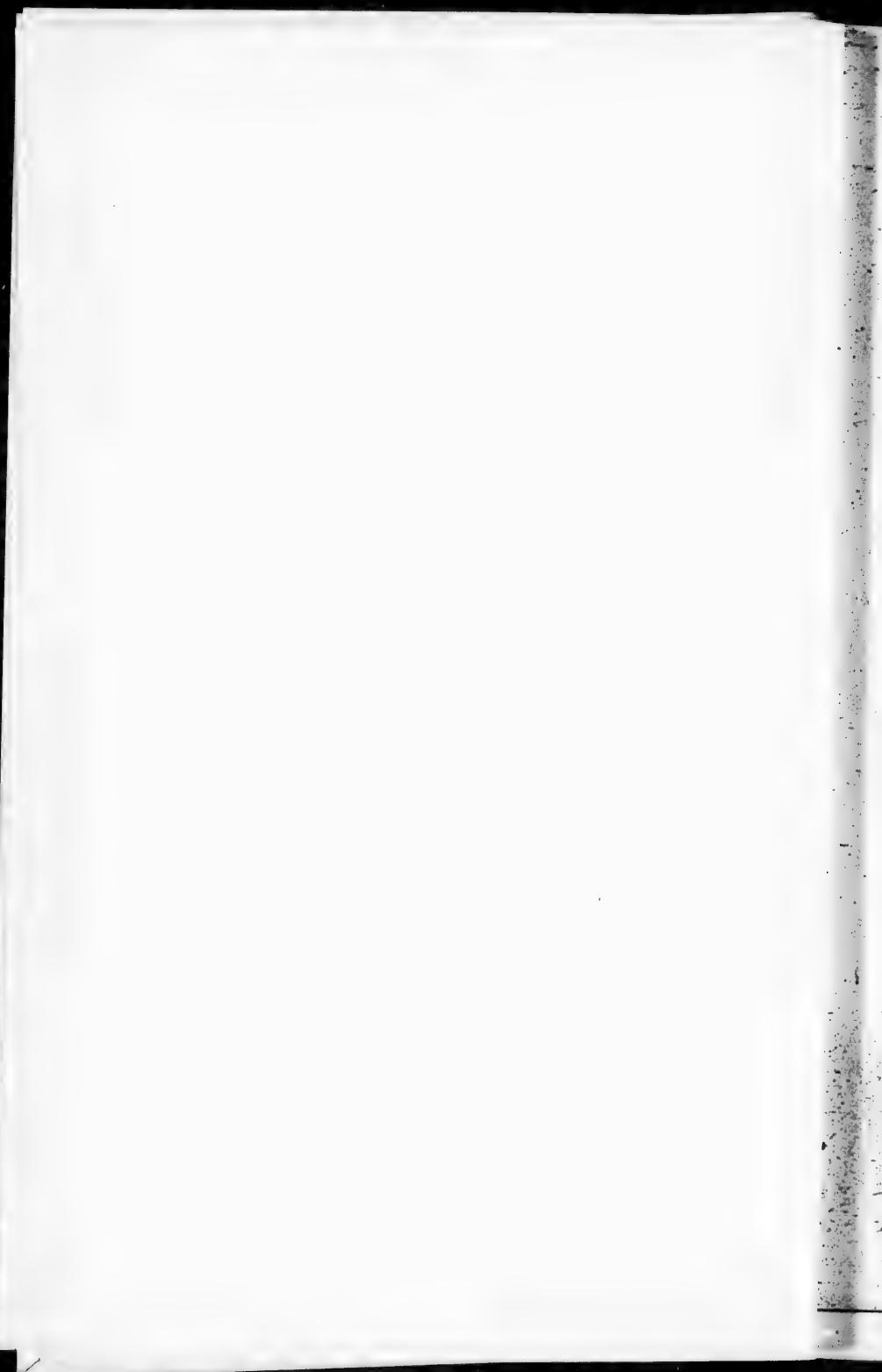
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## FORM 130.

## SCHEDULE OF CLERKS' FEES.

1. Receiving claim, numbering and entering in Procedure Book .....	\$0 15
(This item to apply to entering in the procedure book a transcript of judgment from another court, but not an entry made for the issue of a judgment summons).	
2. Issuing summons with necessary notices and warnings thereon, or judgment summons (as provided in the forms), in all,	
Where claim does not exceed \$20 .....	0 30
"      " exceeds \$20 and does not exceed \$60 .....	0 40
"      " exceeds \$60.....	0 50
[N.B.—In replevin and interpleader suits the value of goods to regulate the fee.]	
3. Copy of summons, including all notices and warnings thereon .....	0 20
4. Copy of claim (including particulars) when not furnished by plaintiff (to be paid by the plaintiff) ..	0 20
5. Copy of set-off (including particulars), when not furnished by the defendant (to be paid by the defendant) .....	0 20
6. Receiving and entering Bailiff's return to any summons, writ or warrant issued under the seal of the Court (except summons to witness and return to summons, or papers from another Division)....	0 10
7. Entering notice of set-off, plea of payment, or other defence requiring notice to the plaintiff, or notice of admission .....	0 20



(To be paid in the first instance by the defendant or other person entering it—but it may be afterwards taxed against the plaintiff should costs be given against him.)

8. Taking confession of judgment .....	\$0 10
	(This does not include affidavit and oath, chargeable under item 9.)
9. Every necessary affidavit, if actually prepared by the Clerk, and administering oath to the deponent	0 25
10. Copies of papers, for which no fee is already provided,—necessarily required for service or transmission to the Judge,—each.....	0 10
11. Every notice required to be given by Clerk to any party to a cause or proceeding, or to the Judge in respect to the same, and mailing.....	0 10
12. Entering final judgment, by Clerk, on special summons: where claim not disputed.....	0 40
13. Entering every judgment rendered at the hearing, or final order made by the Judge.....	0 40
	[This one fee of 40cts. will include the service of recording at the trial and afterwards entering in the procedure book the judgment, decree and order in its entirety, rendered or made at the trial. In a garnishee proceeding before judgment, the fee of 40cts. will be allowed for the judgment in respect to the primary debtor, and a like fee of 40cts. for the adjudication whenever made in respect to the garnishee.]
14. Subpoena to witness.....	0 10
	(The Subpoena may include any number of names therein, and only one original subpoena shall be taxed, except the Judge otherwise orders.)
15. For every copy of Subpoena required for service....	0 05

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16. Summons for each jurymen, when called by the parties.....	\$0 10
(Only 25cts. in all is to be allowed for returning a Judge's jury.)	
17. Every order of reference or order for adjournment made at hearing, and every order requiring the signature of the Judge, and entering the same....	0 15
(Any warning necessary with order, e.g., the warning in form 42, forms part of the order.)	
18. Transcript of judgment (under sections 161 or 165)	0 25
19. Every writ of execution, warrant of attachment, or warrant for arrest of delinquent and delivering same to Bailiff.....	0 40
20. Renewal of every writ of execution when ordered by the judgment creditor.....	0 10
21. Every bond when necessary and prepared by the Clerk (including affidavit of justification).....	0 50
22. For necessary entries in the debt attachment book in each case (in all).....	0 20
23. Transmitting transcript of judgment; or transmitting papers for service to another division, or to Judge on application to him, including necessary entries, but not postage.....	0 20
24. Receiving papers from another division for service, entering the same, handing to the Bailiff, receiving and entering his return, and transmitting the same (if return made promptly, not otherwise)...	0 30
(This fee does not include a charge for receiving transcript of judgment for which a fee of 15 cents is taxable under item 1.)	



25. Search by person not party to the suit or proceeding to be paid by the applicant, 10c.; search by party to the suit or proceeding where service is over one year old ..... \$0 10

(No fee is chargeable for search to a party to the suit or proceeding, if the same is not over one year old.)

## FORM 131.

## SCHEDULE OF BAILIFF'S FEES.

1. Service of summons, writ or warrant, issued under the seal of the Court, or Judge's summons on each person (except summons to witness, and summons to jurymen),

Where claim does not exceed \$20 ..... \$0 20

" " exceeds \$20 and does not exceed \$60 0 30

" " " \$60 ..... 0 40

[In interpleader suits the value of the goods to regulate the fee.]

2. For every return as to service of summons, attending at the Clerk's office and making the necessary affidavit (as provided by Rule 90) ..... 0 10

3. Service of summons on witness or jurymen, or service of notice ..... 0 10

4. Taking confession of judgment, and attending to prove ..... 0 10

5. For calling parties and their witnesses at the sittings of the Court in every defended case, as provided by Rule 91, amended by Rule 168 ..... 0 15

6. Enforcing every writ of execution, or summons in replevin, or warrant of attachment, or warrant against the body,—each,

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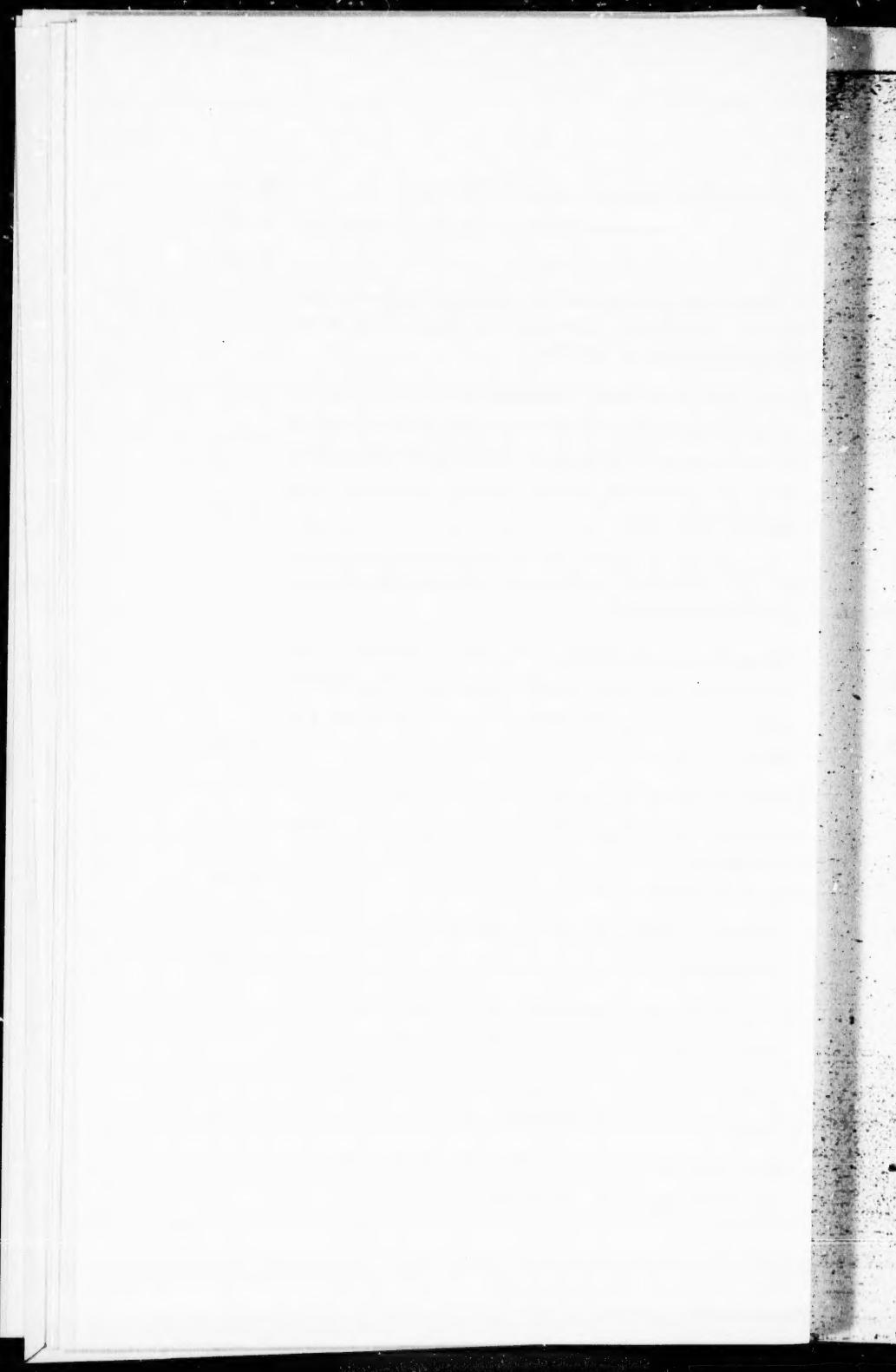
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Where claim does not exceed \$20 .....	\$0 40
"      " exceeds \$20 and does not exceed \$60 .....	0 60
"      " " . \$60.....	0 80
 (Executing summons in replevin, includes service on defendant. The value of the goods to regulate the amount of the fee.)	
7. Every mile necessarily travelled to serve summons or process, or other necessary papers, or in going to seize on attachment, or in going to seize on a writ of execution, where money made or case settled after levy .....	0 11
 (In no case is mileage to be allowed for a greater distance than from the Clerk's office to the place of service or seizure.)	
8. Mileage to arrest delinquent under a warrant to be at 11 cents per mile, but for carrying delinquent to prison, including all expenses and assistance, per mile .....	0 20
9. Every schedule of property seized, attached or replevied, including affidavit of appraisal, when necessary,	
Not exceeding \$20 .....	0 30
Exceeding \$20 and not exceeding \$60 .....	0 50
Exceeding \$60 .....	0 75
10. Every bond when necessary, when prepared by the Bailiff, (including affidavit of justification).....	0 50
11. Every notice of sale not exceeding three, under execution or under attachment, each .....	0 15
12. There shall be allowed to the Bailiff, for removing or retaining property seized under execution or	



attached, reasonable and necessary disbursements and allowances, to be first settled by the Clerk, subject to appeal to the Judge.....

13. There shall be allowed to the Bailiff five per cent. upon the amount realized from the sale of property under any execution, but such percentage not to apply to any overplus thereon .....

The subjoined table will shew the amount of costs (in three grades) properly chargeable under the foregoing tables of fees, in an ordinary suit for a money demand against one defendant and in the several stages specified in the table.

OFFICERS' FEES—CLERK AND BAILIFF.	Claim under \$20.	Claim \$20 to \$60.	Claim over \$60.
Up to and including the issuing of summons and delivering the same with copy to Bailiff, where claim paid or case settled before service of summons by Bailiff.....	8 cts.	8 cts.	8 cts.
	0 65	0 75	0 85
Up to hearing, but not including the hearing, where case settled or claim paid before hearing .....	1 45	1 65	1 85
[If claim settled before notice to Plaintiff of defence, &c., 15 cents to be deducted from each of these items.]			
Up to and including the entry of judgment after the hearing by Judge, and case settled after the hearing and judgment .....	2 00	2. 20	2 40

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N.B.—The amounts in the above table do not include fees for services only occasionally rendered (found in the table of fees) or extra postage or jury cases, or mileage, or summoning witnesses, or disbursements to witnesses, which will vary in each case.

Dated 28th November, 1879.

JAS. ROBT. GOWAN,  
*Senior Judge, C.S.*

S. J. JONES,  
*County Judge, Brant.*

D. J. HUGHES,  
*County Judge, Elgin.*

Approved:

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